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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,948	12/28/2000	Perry G. Vincent	23689-210	7545
26890	7590	07/01/2004	EXAMINER	
JAMES M. STOVER NCR CORPORATION 1700 SOUTH PATTERSON BLVD, WHQ4 DAYTON, OH 45479			MEINECKE DIAZ, SUSANNA M	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 07/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.





## Office Action Summary

**Application No.**

09/750,948

**Applicant(s)**VINCENT, PERRY G. **Examiner**

Susanna M. Diaz

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 December 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/2/01</u> .  | 6) <input type="checkbox"/> Other: _____                                    |



### DETAILED ACTION

1. Claims 1-20 are presented for examination.

#### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-10 and 16-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, claims 1-10 and 16-20 recite the useful, concrete, and tangible result of recommending an interaction strategy; however, they fail to incorporate the technological arts and are therefore non-statutory.

Appropriate correction is required.



***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by the NCR Customer Relationship Management suite/portfolio, including Relationship Optimizer™ and InterRelate+™, as disclosed in the following references:

“NCR’s Next Generation Software Makes True Customer Relationship Management a Reality” (July 26, 1999);

“NCR Selects Quadstone as Preferred Analytical Workbench in Support of New Customer Relationship Management Solution” (September 27, 1999);

“New NCR Suite of Solutions Helps Airlines, Insurance Companies Build and Manage More Profitable Customer Relationships” (October 4, 1999);

Sweat et al., “Instant Marketing” (August 2, 1999);

“NCR to Help Customer Focus Switch” (September 1999);

“New Software Sets Up Banks for Tailored Customer Marketing” (August 12, 1999);

“NCR Corporation” (July 28, 1999);

“Data Collector’s Items” (September 30, 1999);

“NCR Corporation and MicroStrategy Ink \$52.5 Million Agreement” (October 4, 1999);



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"NCR Becomes Strategy.com Master Affiliate" (October 4, 1999); and  
Hammond, "NCR, MicroStrategy to Share Data Technologies" (October 11, 1999).

6. Claims 1-20 are rejected under 35 U.S.C. 102(b) based upon a public use or sale of the invention. As explained in the art rejection above, claims 1-20 are clearly anticipated by the NCR Customer Relationship Management suite/portfolio, including Relationship Optimizer™ and InterRelate+™, as disclosed in the following references:

"NCR's Next Generation Software Makes True Customer Relationship Management a Reality" (July 26, 1999);

"NCR Selects Quadstone as Preferred Analytical Workbench in Support of New Customer Relationship Management Solution" (September 27, 1999);

"New NCR Suite of Solutions Helps Airlines, Insurance Companies Build and Manage More Profitable Customer Relationships" (October 4, 1999);

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"NCR Becomes Strategy.com Master Affiliate" (October 4, 1999); and  
Hammond, "NCR, MicroStrategy to Share Data Technologies" (October 11,  
1999).

NCR Corporation is the assignee of the instant application and the NCR  
Customer Relationship Management suite/portfolio, including Relationship Optimizer™  
and InterRelate+™, were publicly used and sold more than one year prior to Applicant's  
filing date of December 28, 2000. Furthermore, Applicant's own specification admits  
that the invention is based on "NCR Corporation's InterRelate+™ customer relationship  
management software" and "NCR's Relationship Optimizer™ marketing automation  
solution" (see page 6 of the specification).

### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the  
examiner should be directed to Susanna M. Diaz whose telephone number is (703) 305-  
1337. The examiner can normally be reached on Monday-Friday, 9 am - 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's  
supervisor, Tariq Hafiz can be reached on (703) 305-9643.

Any inquiry of a general nature or relating to the status of this application or  
proceeding should be directed to the Receptionist whose telephone number is  
(703)308-1113.

Any response to this action should be mailed to:

**Commissioner for Patents  
P.O. Box 1450**



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**Alexandria, Virginia 22313-1450**

or faxed to:

**(703)305-7687**

[Official communications; including  
After Final communications labeled  
"Box AF"]

**(703)746-7048**

[Informal/Draft communications, labeled  
"PROPOSED" or "DRAFT"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA, 22202, 7<sup>th</sup> floor receptionist.



Susanna M. Diaz  
Primary Examiner  
Art Unit 3623  
June 28, 2004